

1           **SECTION 72.** 35.93 (2) (b) 3. im. of the statutes is created to read:

2           35.93 (2) (b) 3. im. Notices of public comment periods on proposed guidance  
3 documents under s. 227.112 (1) (a).

4           **SECTION 73.** 45.57 of the statutes is amended to read:

5           **45.57 Veterans homes; transfer of funding.** The department may transfer  
6 all or part of the unencumbered balance of any of the appropriations under s. 20.485  
7 (1) (g), (gd), (gk), or (i) to the veterans trust fund or to the veterans mortgage loan  
8 repayment fund. The department shall notify the joint committee on finance in  
9 writing of any balance transferred under this section.

10          **SECTION 74.** 49.175 (2) (a) of the statutes is amended to read:

11          49.175 (2) (a) The department may not reallocate funds that are allocated  
12 under a paragraph under sub. (1) for any purpose specified in a paragraph under sub.  
13 (1) if the secretary of administration approves the reallocation unless the  
14 department first notifies the joint committee on finance in writing of the proposed  
15 reallocation. If the cochairpersons of the committee do not notify the department  
16 within 14 working days after the date of the department's notification that the  
17 committee has scheduled a meeting to review the proposed reallocation, the  
18 department may make the proposed reallocation. If, within 14 working days after  
19 the date of the department's notification, the cochairpersons of the committee notify  
20 the department that the committee has scheduled a meeting to review the proposed  
21 reallocation, the department may make the proposed reallocation only upon  
22 approval of the committee.

23          **SECTION 75.** 49.175 (2) (c) of the statutes is amended to read:

24          49.175 (2) (c) If the amounts of federal block grant moneys that are required  
25 to be credited to the appropriation accounts under s. 20.437 (2) (mc) and (md) are less

1 than the amounts appropriated under s. 20.437 (2) (mc) and (md), the department  
2 shall submit a plan to the ~~secretary of administration~~ joint committee on finance for  
3 reducing the amounts of moneys allocated under sub. (1). ~~If the secretary of~~  
4 ~~administration approves the plan, the amounts of moneys required to be allocated~~  
5 ~~under sub. (1) may be reduced as proposed by the department and~~ If the  
6 cochairpersons of the committee do not notify the department within 14 working  
7 days after the date the department submits the plan that the committee has  
8 scheduled a meeting to review the proposed reduction plan, the department shall  
9 allocate the moneys as specified in the plan. If, within 14 working days after the date  
10 the department submits the plan, the cochairpersons of the committee notify the  
11 department that the committee has scheduled a meeting to review the proposed  
12 reduction plan, the department may allocated the moneys as specified in the plan  
13 only upon approval of the committee.

14 **SECTION 76.** 49.45 (2t) of the statutes is created to read:

15 49.45 (2t) SUBMISSION OF STATE PLAN AMENDMENTS AND PROVIDER PAYMENTS. (a)  
16 The department may not submit a Medical Assistance state plan amendment to the  
17 federal department of health and human services or implement a change to the  
18 reimbursement rate for or make a supplemental payment to a provider under the  
19 Medical Assistance program under this subchapter when the amendment, rate  
20 change, or payment has an expected fiscal effect of less than \$1,000,000 from all  
21 revenue sources over a 12-month period following the implementation date of the  
22 amendment, rate change, or payment without submitting the proposed state plan  
23 amendment, rate change, or payment to the joint committee on finance for review.  
24 If the cochairpersons of the joint committee on finance do not notify the department  
25 within 14 working days after the date of the submittal under this paragraph that the

1 committee has scheduled a meeting for the purpose of reviewing the proposed state  
2 plan amendment, rate change, or payment, the department may submit the state  
3 plan amendment, implement the rate change, or make the payment. If, within 14  
4 working days after the date of the submittal under this paragraph by the  
5 department, the cochairpersons of the committee notify the department that the  
6 committee has scheduled a meeting for the purpose of reviewing the proposed state  
7 plan amendment, rate change, or payment, the department may submit the state  
8 plan amendment, implement the rate change, or make the payment only upon  
9 approval by the committee.

10 (b) The department may not submit a Medical Assistance state plan  
11 amendment to the federal department of health and human services or implement  
12 a change to the reimbursement rate for or make a supplemental payment to a  
13 provider under the Medical Assistance program under this subchapter when the  
14 amendment, rate change, or payment has an expected fiscal effect of \$1,000,000 or  
15 more from all revenue sources over a 12-month period following the implementation  
16 date of the amendment, rate change, or payment without submitting the proposed  
17 state plan amendment, rate change, or payment to the joint committee on finance for  
18 review. The department may submit the proposed state plan amendment,  
19 implement the rate change, or make the payment only upon approval by the  
20 committee of the proposed state plan amendment, rate change, or payment  
21 submitted under this paragraph.

22 (c) Notwithstanding pars. (a) and (b), the department is not required to submit  
23 a proposed change to a reimbursement rate for or supplemental payment to a  
24 provider under the Medical Assistance program under this subchapter to the joint

1 committee on finance under par. (a) or (b) if explicit expenditure authority or funding  
2 for the specific change or supplemental payment is included in enacted legislation.

3 **SECTION 77.** 49.45 (23b) of the statutes is created to read:

4 **49.45 (23b)** CHILDLESS ADULTS DEMONSTRATION PROJECT REFORM WAIVER  
5 IMPLEMENTATION REQUIRED. (a) In this subsection:

6 1. "Community engagement activity" includes any of the following:

7 a. Work in exchange for money, goods, or services.

8 b. Unpaid work, such as volunteer work or community service.

9 c. Self-employment.

10 d. Participation in a work, job training, or job search program, as approved by  
11 the department, including the employment and training program under s. 49.79 (9),  
12 the Wisconsin Works program under ss. 49.141 to 49.161, programs under the federal  
13 workforce innovation and opportunity act, and tribal work programs.

14 2. "Exempt individual" means an individual who is any of the following:

15 a. Receiving temporary or permanent disability benefits from the federal or  
16 state government or a private source.

17 b. Determined by the department to be physically or mentally unable to work.

18 c. Verified as unable to work in a statement from a social worker or other health  
19 care professional.

20 d. Experiencing chronic homelessness.

21 e. Serving as primary caregiver for a person who cannot care for himself or  
22 herself.

23 f. Receiving or applying for unemployment compensation and complying with  
24 the work requirements for unemployment compensation.

1           g. Participating regularly in an alcohol or other drug abuse treatment or  
2           rehabilitation program, except for alcoholics anonymous or narcotics anonymous but  
3           including cultural interventions specific to American Indian tribes or bands.

4           h. Attending high school at least half time or enrolled in an institution of higher  
5           education, including vocational programs or high school equivalency programs, at  
6           least half time.

7           i. Exempt from work requirements under the food stamp program under s.  
8           49.79.

9           (b) Beginning as soon as practicable after October 31, 2018, and ending no  
10          sooner than December 31, 2023, the department shall do all of the following with  
11          regard to the childless adults demonstration project under sub. (23):

12          1. Require in each month persons, except exempt individuals, who are eligible  
13          to receive Medical Assistance under sub. (23) and who are at least 19 years of age but  
14          have not attained the age of 50 to participate in, document, and report 80 hours per  
15          calendar month of community engagement activities. The department, after finding  
16          good cause, may grant a temporary exemption from the requirement under this  
17          subdivision upon request of a Medical Assistance recipient.

18          2. Require persons with incomes of at least 50 percent of the poverty line to pay  
19          premiums in accordance with par. (c) as a condition of eligibility for Medical  
20          Assistance under sub. (23).

21          3. Require as a condition of eligibility for Medical Assistance under sub. (23)  
22          completion of a health risk assessment.

23          4. Charge recipients of Medical Assistance under sub. (23) an \$8 copayment for  
24          nonemergency use of the emergency department in accordance with 42 USC 1396o-1  
25          (e) (1) and 42 CFR 447.54.

1           5. Disenroll from Medical Assistance under sub. (23) for 6 months any  
2 individual who does not pay a required premium under subd. 2. and any individual  
3 who is required under subd. 1. to participate in a community engagement activity but  
4 who does not participate for 48 aggregate months in the community engagement  
5 activity.

6           (c) 1. Persons who are eligible for the demonstration project under sub. (23) and  
7 who have monthly household income that exceeds 50 percent of the poverty line shall  
8 pay a monthly premium amount of \$8 per household. A person who is eligible to  
9 receive an item or service furnished by an Indian health care provider is exempt from  
10 the premium requirement under this subdivision.

11           2. The department may disenroll under par. (b) 5. a person for nonpayment of  
12 a required monthly premium only at annual eligibility redetermination after  
13 providing notice and reasonable opportunity for the person to pay. If a person who  
14 is disenrolled for nonpayment of premiums pays all owed premiums or becomes  
15 exempt from payment of premiums, he or she may reenroll in Medical Assistance  
16 under sub. (23).

17           3. The department shall reduce the amount of the required household premium  
18 by up to half for a recipient of Medical Assistance under sub. (23) who does not engage  
19 in certain behaviors that increase health risks or who attests to actively managing  
20 certain unhealthy behaviors.

21           (d) The department shall comply with any other requirements not specified  
22 elsewhere in this subsection that are imposed by the federal department of health  
23 and human services in its approval effective October 31, 2018.

24           (e) Before December 31, 2023, the demonstration project requirements under  
25 this subsection may not be withdrawn and the department may not request from the

1 federal government withdrawal, suspension, or termination of the demonstration  
2 project requirements under this subsection unless legislation has been enacted  
3 specifically allowing for the withdrawal, suspension, or termination.

4 (f) The department shall comply with all applicable timing in and requirements  
5 of s. 20.940.

6 **SECTION 78.** 49.79 (9) (d) 1. of the statutes is repealed.

7 **SECTION 79.** 49.79 (9) (d) 2. of the statutes is renumbered 49.79 (9) (d) and  
8 amended to read:

9 49.79 (9) (d) Subject to the promulgation of rules under subd. 1. s. 49.791, the  
10 department shall screen and, if indicated, test and treat participants in an  
11 employment and training program under this subsection who are able-bodied adults  
12 for illegal use of a controlled substance without a valid prescription for the controlled  
13 substance. Eligibility for an able-bodied adult to participate in an employment and  
14 training program under this subsection is subject to s. 49.791.

15 **SECTION 80.** 49.791 of the statutes is created to read:

16 **49.791 Substance abuse screening, testing, and treatment for**  
17 **employment and training programs. (1) DEFINITIONS.** In this section:

18 (a) "Able-bodied adult" has the meaning given in s. 49.79 (1) (am).

19 (b) "Administering agency" means an administrative agency within the  
20 executive branch under ch. 15 or an entity that contracts with the state such as a  
21 single county consortia under s. 49.78 (1r), a multicounty consortia under s. 49.78 (1)  
22 (br), or a tribal governing body under s. 49.78 (1) (cr).

23 (c) "Confirmation test" means an analytical procedure used to quantify a  
24 specific controlled substance or its metabolite in a specimen through a test that is  
25 different in scientific principle from that of the initial test procedure and capable of

1 providing the requisite specificity, sensitivity, and quantitative accuracy to  
2 positively confirm use of a controlled substance.

3 (d) "Controlled substance" has the meaning given in s. 49.79 (1) (b).

4 (e) "Employment and training program" means the food stamp employment  
5 and training program under s. 49.79 (9).

6 (f) "Food stamp program" has the meaning given in s. 49.79 (1) (c).

7 (g) "Medical review officer" means a licensed medical provider who is employed  
8 by or providing services under a contract to a qualified drug testing vendor, has  
9 knowledge of substance abuse disorders and laboratory testing procedures, and has  
10 the necessary training and experience to interpret and evaluate an individual's  
11 positive test result in relation to the individual's medical history and valid  
12 prescriptions.

13 (h) "Metabolite" means a chemical present in the body when a controlled  
14 substance is being broken down through natural metabolic processes that can be  
15 detected or measured as a positive indicator that a controlled substance associated  
16 with the metabolite has been used.

17 (i) "Prescription" means a current order for a controlled substance that  
18 indicates the specific regimen and duration of the order and that is transmitted  
19 electronically or in writing by an individual authorized in this state to order the  
20 controlled substance.

21 (j) "Qualified drug testing vendor" means a laboratory certified by the federal  
22 centers for medical and medicaid services under the federal Clinical Laboratory  
23 Improvement Amendments of 1988 to collect a specimen, carry out laboratory  
24 analysis of the specimen, store the specimen for a confirmation test if required,  
25 complete a confirmation test, and provide review by a medical review officer.



1           (k) "Screening" means completing a questionnaire specified by the department  
2 regarding an individual's current and prior use of any controlled substance.

3           (L) "Specimen" means tissue, fluid, or any other product of the human body  
4 required to be submitted by an individual for testing under this section.

5           (m) "Trauma-informed" means operating under the understanding of the  
6 science of adverse childhood experiences, toxic stress, trauma, and resilience,  
7 incorporating that understanding into organizational culture, policies, programs,  
8 and practices, and adhering to trauma-informed principles such as safety,  
9 trustworthiness and transparency, peer support, collaboration and mutuality,  
10 empowerment, and cultural, historical, and gender issue recognition.

11           (n) "Treatment" means any service that is conducted under clinical supervision  
12 to assist an individual through the process of recovery from controlled substance  
13 abuse, including screening, application of approved placement criteria, intake,  
14 orientation, assessment, individualized treatment planning, intervention,  
15 individual or group and family counseling, referral, discharge planning, after care  
16 or continuing care, record keeping, consultation with other professionals regarding  
17 treatment services, recovery and case management, crisis intervention, education,  
18 employment, and problem resolution in life skills functioning.

19           (o) "Treatment program" means a program certified by the department to  
20 provide treatment for controlled substance abuse as a medically managed inpatient  
21 service, a medically monitored treatment service, a day treatment service, an  
22 outpatient treatment service, a transitional residential treatment service, or a  
23 narcotic treatment service for opiate addiction or, as approved by the department,  
24 psychosocial rehabilitation services.

1 (p) "Treatment provider" means a provider of treatment for controlled  
2 substance abuse certified by the department, a provider certified under s. 440.88, or  
3 a licensed professional who meets criteria established by the department of safety  
4 and professional services.

5 (2) NOTICE OF REQUIREMENT. An administering agency shall provide  
6 information in a format approved by the department to any individual who expresses  
7 interest in or is referred to participate in an employment and training program to  
8 explain the requirement for participants in certain employment and training  
9 programs to undergo screening, testing, and treatment for abuse of controlled  
10 substances.

11 (3) ADMINISTERING AND EVALUATING A CONTROLLED SUBSTANCE ABUSE SCREENING  
12 QUESTIONNAIRE. (a) At the time of application and at annual redetermination for  
13 eligibility in the food stamp program, an administering agency shall administer to  
14 any able-bodied adult who is subject to the work requirement under s. 49.79 (10) (a)  
15 and intends on meeting the work requirement through participation in the  
16 employment and training program a controlled substance abuse screening  
17 questionnaire approved by the department, which may include questions related to  
18 controlled substance abuse-related criminal background and controlled substance  
19 abuse. The administering agency shall determine whether answers to the controlled  
20 substance abuse screening questionnaire indicate possible use of a controlled  
21 substance without a valid prescription by the able-bodied adult.

22 (b) 1. An able-bodied adult who is administered a controlled substance abuse  
23 screening questionnaire under par. (a) shall answer all questions on the screening  
24 questionnaire, sign and date the questionnaire, and submit the questionnaire to the  
25 administering agency.

1           2. If the able-bodied adult indicates on the screening questionnaire submitted  
2           under subd. 1. the prescribed use of a controlled substance, the able-bodied adult  
3           shall provide evidence of the valid prescription to the administering agency.

4           (c) An able-bodied adult who is administered a controlled substance abuse  
5           screening questionnaire under par. (a) and who fails to comply with the requirements  
6           under par. (b) is not eligible to participate in the employment and training program,  
7           and the administering agency may not refer the individual to participate in the  
8           employment and training program. An able-bodied adult who is denied eligibility  
9           for participation in the employment and training program for failure to complete the  
10          requirements under par. (b) may complete the requirements under par. (b) at any  
11          time while eligible for the food stamp program.

12          (d) An able-bodied adult who completes a controlled substance abuse screening  
13          questionnaire under this subsection and whose answers to the screening  
14          questionnaire do not indicate possible abuse of a controlled substance has satisfied  
15          the requirements of this section and may participate in an employment and training  
16          program subject to this section.

17          (4) TESTING FOR USE OF A CONTROLLED SUBSTANCE REQUIRED. (a) *Individuals*  
18          *required to undergo testing; exception.* 1. Except as provided in subd. 2., an  
19          administering agency shall require an able-bodied adult whose answers on the  
20          controlled substance abuse screening questionnaire submitted under sub. (3)  
21          indicate possible use of a controlled substance without a prescription to undergo a  
22          test for the use of a controlled substance.

23          2. An administering agency may not require an able-bodied adult whose  
24          answers on the controlled substance abuse screening questionnaire submitted under  
25          sub. (3) indicate possible use of a controlled substance and who also indicates

1 readiness to enter treatment for controlled substance abuse to undergo a test for the  
2 use of a controlled substance.

3 (b) *Nature of testing required.* A test for use of a controlled substance under  
4 this subsection consists of laboratory analysis of a specimen collected from an  
5 able-bodied adult described in par. (a) in a manner specified by the department that  
6 is consistent with guidelines from the federal department of health and human  
7 services by a qualified drug testing vendor or a provider approved by the department.  
8 The qualified drug testing vendor or other provider shall analyze the specimen for  
9 the presence of controlled substances specified by the department.

10 (c) *Contracts for testing services.* 1. The administering agency, subject to the  
11 department's approval, may contract with a trauma-informed qualified drug testing  
12 vendor to collect a specimen, carry out laboratory analysis of the specimen, store the  
13 specimen for confirmatory testing if required, complete confirmatory testing, provide  
14 review by a medical review officer, and document and report test results to the  
15 administering agency.

16 2. The department may require administering agencies to use a specific drug  
17 testing service procured through state contracting if the department determines that  
18 volume discounts or other preferential pricing terms may be achieved through a  
19 statewide contract.

20 (d) *Effects of refusal to submit to drug test.* 1. An able-bodied adult who is  
21 required to undergo a test for the use of a controlled substance under par. (a) but who  
22 refuses to submit to a drug test by doing any of the following is ineligible to  
23 participate in the employment and training program until the individual agrees to  
24 be tested for use of a controlled substance and test results have been reported:

25 a. Failing or refusing to appear for a scheduled drug test without good cause.

1           b. Failing or refusing to complete a form or release of information required for  
2           testing, including any form or release required by the qualified drug testing vendor  
3           to permit the vendor to report test results to the administering agency or  
4           department.

5           c. Failing or refusing to provide a valid specimen for testing.

6           d. Failing or refusing to provide verification of identity to the testing vendor.

7           2. The administering agency may direct an able-bodied adult who initially  
8           refused to submit to a drug test under subd. 1. and subsequently agrees to submit  
9           to a test to undergo drug testing on a random basis at any time within 10 business  
10          days after the able-bodied adult agrees to submit to a test.

11          (e) *Confirmation test required.* If an able-bodied adult tests positive for the use  
12          of a controlled substance, the qualified drug testing vendor shall perform a  
13          confirmation test using the same specimen obtained for the initial drug test. The  
14          vendor's medical review officer who is responsible for determining the presence of a  
15          controlled substance under par. (b) shall interpret all drug test results that are not  
16          negative.

17          (f) *Accepting test results from other programs.* For purposes of this section, an  
18          administering agency may use results of a drug test performed by the administering  
19          agency for the purpose of eligibility for another state program, including a work  
20          experience program under s. 49.162, 49.36, or 108.133, performed at the request of  
21          the department of corrections, or performed by other drug testing providers as  
22          approved by the department to determine whether to refer an able-bodied adult to  
23          treatment if all of the following apply:

24          1. The test results are provided directly to the administering agency.

1           2. The test results include tests for all controlled substances required by the  
2 department to be tested under this section.

3           3. The test occurred within 90 days before the results are provided to the  
4 administering agency.

5           (g) *Effect of a negative test.* An able-bodied adult who undergoes a test for use  
6 of a controlled substance under this subsection and tests negative for use of a  
7 controlled substance or who tests positive for use of a controlled substance but  
8 provides to the administering agency a prescription for each controlled substance for  
9 which the adult tests positive is not prohibited from participating in an employment  
10 and training program.

11           (h) *Effect of a positive test.* An able-bodied adult who undergoes a test for use  
12 of a controlled substance under this subsection, whose test results are positive, and  
13 who does not provide evidence of a prescription for the controlled substance, as  
14 determined by the qualified drug testing vendor's medical review officer, is required  
15 to participate in treatment under sub. (5) to participate in an employment and  
16 training program.

17           (5) PARTICIPATION IN TREATMENT REQUIRED. (a) *Individuals required to*  
18 *participate in treatment.* An able-bodied adult who is described under sub. (4) (a)  
19 or (h) is required to participate in trauma-informed treatment to be eligible to  
20 participate in an employment and training program.

21           (b) *Referral for treatment; monitoring.* The applicable administering agency  
22 shall provide to every able-bodied adult who is required to participate in treatment  
23 under par. (a) information about treatment programs and county-specific  
24 assessment and enrollment activities required for entry into treatment. The  
25 applicable administering agency shall monitor the able-bodied adult's progress in

1 entering and completing treatment and the results of random testing for the use of  
2 a controlled substance carried out during and at the conclusion of treatment.

3 (c) *Evaluation and assessment.* A treatment provider shall conduct a  
4 trauma-informed substance abuse evaluation and assessment of each able-bodied  
5 adult and take any of the following actions, as appropriate, based on the evaluation  
6 and assessment:

7 1. If the treatment provider determines the able-bodied adult does not need  
8 treatment, notify the administering agency that the able-bodied adult does not need  
9 treatment.

10 2. If the treatment provider determines the able-bodied adult is in need of  
11 treatment, refer the individual to an appropriate treatment program to begin  
12 treatment and notify the administering agency of the referral and the expected start  
13 date and duration of treatment.

14 3. If a treatment provider determines the able-bodied adult is in need of  
15 treatment but is unable to refer the adult because there is a waiting list for  
16 enrollment, enter the able-bodied adult on the waiting list and notify the  
17 administering agency of the date the adult is expected to be enrolled.

18 (d) *Eligibility when treatment not needed or on waiting list.* 1. An able-bodied  
19 adult described in par. (c) 1. is determined to have satisfied the requirements of this  
20 section and is eligible under this section to participate in an employment and  
21 training program.

22 2. An able-bodied adult who is on a waiting list for enrollment in an  
23 appropriate treatment program under par. (c) 3. shall continue to take all necessary  
24 steps to continue seeking enrollment in the appropriate treatment program. The  
25 able-bodied adult is eligible under this section to participate in an employment and

1 training program while on the waiting list if the adult is not eligible for immediate  
2 enrollment in another appropriate treatment program.

3 (e) *Satisfying treatment requirement through another program.* An  
4 administering agency shall accept as satisfying the requirements of this subsection  
5 participation in any treatment program. The able-bodied adult satisfying the  
6 requirements of this subsection by participating in another treatment program shall  
7 execute a release of information to allow the administering agency to obtain  
8 verification of successful participation in that treatment program.

9 (f) *Effects of refusal to submit to treatment.* An able-bodied adult who is  
10 required to participate in treatment under par. (a) but who refuses to participate in  
11 treatment by doing any of the following is ineligible to participate in the employment  
12 and training program until the individual agrees to participate in treatment while  
13 still eligible for the food stamp program:

14 1. Failing or refusing to complete a form or release required for treatment  
15 program administration, including a form or release required by the treatment  
16 provider in order to share information with the administering agency about the  
17 able-bodied adult's participation in treatment.

18 2. Failing or refusing to participate in a controlled substance test required by  
19 the treatment provider or the administering agency during the course of required  
20 treatment, including any random controlled substance testing directed by the  
21 treatment provider or administering agency.

22 3. Failing or refusing to meet attendance or participation requirements  
23 established by the treatment provider.

24 4. Failing or refusing to complete a substance abuse assessment.



1           (g) *Completion of required treatment.* An able-bodied adult required under par.  
2           (a) to participate in treatment is considered to have successfully completed  
3           treatment if all applicable components identified under par. (c) are satisfied.

4           (h) *Work requirements while in treatment.* An able-bodied adult who is  
5           participating in an employment and training program is exempt from complying  
6           with requirements to work a specified number of hours under s. 49.79 (9) or (10) while  
7           participating in treatment under this subsection.

8           **(6) EFFECT OF COMPLETION, WITHDRAWAL, OR TERMINATION FROM EMPLOYMENT AND**  
9           **TRAINING PROGRAM.** An able-bodied adult who satisfies any of the following is no  
10          longer subject to s. 49.79 (9) (d) or this section:

11          (a) The able-bodied adult has completed or voluntarily withdrawn from  
12          participation in an employment and training program.

13          (b) The able-bodied adult is terminated from an employment and training  
14          program for reasons unrelated to this section.

15          (c) The able-bodied adult is no longer subject to the requirements of s. 49.79  
16          (10).

17          **(7) CONFIDENTIALITY OF RECORDS.** Completed screening questionnaires,  
18          prescriptions, testing results, and treatment records relating to this section may not  
19          be disclosed except for purposes connected with the administration of an  
20          employment and training program or except when disclosure is otherwise authorized  
21          by law or by written consent from the individual who is the subject of the record. The  
22          department may establish administrative, physical, and technical safeguard  
23          procedures administering agencies must follow to assure compliance with state and  
24          federal laws related to public assistance program records, drug testing and  
25          treatment records, and medical records.

1           **(8) APPEALS.** An adverse decision under this section may be appealed under 7  
2 CFR 273.15 and procedures established in rules promulgated by the division of  
3 hearings and appeals.

4           **(9) PAYMENT OF COSTS FOR SCREENING, TESTING, AND TREATMENT.** (a) The  
5 department shall pay for all costs related to screening able-bodied adults under sub.  
6 (3), including the costs of producing, administering, and reviewing screening  
7 questionnaires.

8           (b) The department shall pay for all costs related to testing able-bodied adults  
9 under sub. (4), including any costs related to contracting with qualified drug testing  
10 vendors under sub. (4) (c).

11           (c) The department shall pay costs for treatment under sub. (5) that are not  
12 covered by the Medical Assistance program under subch. IV of ch. 49 or other private  
13 insurance. Payments by the department under this paragraph shall be at rates no  
14 higher than the rates paid for comparable services under the Medical Assistance  
15 program.

16           **SECTION 81.** 71.05 (6) (a) 14. of the statutes is amended to read:

17           71.05 (6) (a) 14. Any amount received as a proportionate share of the earnings  
18 and profits of a corporation that is an S corporation for federal income tax purposes  
19 if those earnings and profits accumulated during a year for which the shareholders  
20 have elected under s. 71.365 (4) (a) not to be a tax-option corporation, to the extent  
21 not included in federal adjusted gross income for the current year. This subdivision  
22 does not apply to earnings and profits accumulated during a year for which a  
23 tax-option corporation has made an election under s. 71.365 (4m) (a) to be taxed at  
24 the entity level.

25           **SECTION 82.** 71.05 (10) (dm) of the statutes is created to read:

1           71.05 (10) (dm) Any item of income, loss, or deduction passed through from an  
2           entity that has made an election under s. 71.21 (6) (a) or 71.365 (4m) (a) to be taxed  
3           at the entity level.

4           **SECTION 83.** 71.07 (7) (b) of the statutes, as affected by 2017 Wisconsin Act 59,  
5           is renumbered 71.07 (7) (b) 1. and amended to read:

6           71.07 (7) (b) 1. Subject to conditions and limitations in pars. (c) and (d), if a  
7           resident individual, estate or trust pays a net income tax to another state, that  
8           resident individual, estate or trust may credit the net tax paid to that other state on  
9           that income against the net income tax otherwise payable to the this state on income  
10          of the same year. The credit may not be allowed unless the income taxed by the other  
11          state is also considered income for Wisconsin tax purposes. The credit may not be  
12          allowed unless claimed within the time provided in s. 71.75 (2), but s. 71.75 (4) does  
13          not apply to those credits. For purposes of this paragraph subdivision, amounts  
14          declared and paid under the income tax law of another state are considered a net  
15          income tax paid to that other state only in the year in which the income tax return  
16          for that state was required to be filed.

17          2. Income and franchise taxes paid to another state by a tax-option corporation,  
18          partnership, or limited liability company that is treated as a partnership may be  
19          claimed as a credit under this paragraph by that corporation's shareholders, that  
20          partnership's partners, or that limited liability company's members who are  
21          residents of this state and who otherwise qualify under this paragraph, unless the  
22          tax-option corporation, partnership, or limited liability company has made an  
23          election under s. 71.21 (6) (a) or 71.365 (4m) (a).

24          **SECTION 84.** 71.07 (7) (b) 3. of the statutes is created to read:

1           71.07 (7) (b) 3. Subject to the conditions and limitations in pars. (c) and (d), if  
2   a tax-option corporation, partnership, or limited liability company makes an  
3   election under s. 71.21 (6) (a) or 71.365 (4m) (a), that tax-option corporation,  
4   partnership, or limited liability company may credit the net income or franchise tax  
5   paid by the entity to another state on that income and the net income tax on that  
6   income paid by the entity on behalf of its shareholders, partners, and members that  
7   are residents of this state on a composite return filed with the other state against the  
8   net income or franchise tax otherwise payable to this state on income of the same  
9   year. The credit may not be allowed unless the income taxed by the other state is also  
10   considered income for Wisconsin tax purposes and is otherwise attributable to  
11   amounts that would be reportable to this state by shareholders, partners, or  
12   members of the tax-option corporation, partnership, or limited liability company  
13   that are residents of this state if the election under s. 71.21 (6) (a) or 71.365 (4m) (a)  
14   was not made. The credit may not be allowed unless claimed within the time  
15   provided in s. 71.75 (2), but s. 71.75 (4) does not apply to those credits. For purposes  
16   of this subdivision, amounts declared and paid under the income tax law of another  
17   state are considered a net income tax paid to that other state only in the year in which  
18   the income tax return for that state was required to be filed.

19           **SECTION 85.** 71.07 (7) (c) of the statutes, as created by 2017 Wisconsin Act 59,  
20   is amended to read:

21           71.07 (7) (c) The credit total credits under par. (b) 1. and 2. may not exceed an  
22   amount determined by multiplying the taxpayer's net Wisconsin income tax by a  
23   ratio derived by dividing the income subject to tax in the other state that is also  
24   subject to tax in Wisconsin while the taxpayer is a resident of Wisconsin, by the  
25   taxpayer's Wisconsin adjusted gross income. The credit under par. (b) 3. may not

1 exceed an amount determined by multiplying the income subject to tax in the other  
2 state that is also subject to tax in Wisconsin by 7.9 percent.

3 **SECTION 86.** 71.21 (6) of the statutes is created to read:

4 71.21 (6) (a) If persons who, on the day on which an election under this  
5 paragraph is made, hold more than 50 percent of the capital and profits of a  
6 partnership consent, a partnership that is a partnership for federal income tax  
7 purposes may elect, on or before the due date or extended due date of its return under  
8 this chapter, to be taxed at the entity level at a rate of 7.9 percent of net income  
9 reportable to this state as described in par. (d) 1. for that taxable year.

10 (b) It is the intent of the election under par. (a) that partners of a partnership  
11 may not include in their Wisconsin adjusted gross income their proportionate share  
12 of all items of income, gain, loss, or deduction of the partnership. It is also the intent  
13 that the partnership shall pay tax on items that would otherwise be taxed if this  
14 election was not made.

15 (c) If persons who, on the day on which the election under this paragraph is  
16 made, hold more than 50 percent of the capital and profits of a partnership that has  
17 elected to be taxed at the entity level under par. (a) consent, a partnership that is a  
18 partnership for federal income tax purposes may elect, on or before the due date or  
19 extended due date of its return under this chapter, to revoke for that taxable year its  
20 election under par. (a).

21 (d) If an election is made under par. (a), all of the following apply:

22 1. The net income of the partnership is computed under subs. (1) to (5) and the  
23 situs of income shall be determined as if the election under par. (a) was not made.

24 2. The partnership may not claim the loss under s. 71.05 (8).

1           3. Except as provided in s. 71.07 (7) (b) 3., the tax credits under this chapter  
2 may not be claimed by the partnership.

3           4. A partner's adjusted basis of the partner's interest in the partnership is  
4 determined as if the election under par. (a) was not made.

5           5. The provisions of ss. 71.09 and 71.84 relating to estimated payments and  
6 underpayment interest shall apply to the partnership.

7           6. If the partnership fails to pay the amount owed to the department with  
8 respect to income as a result of the election under par. (a), the department may collect  
9 the amount from the partners based on their proportionate share of such income.

10          (e) The department may promulgate rules to implement this subsection.

11          **SECTION 87.** 71.36 (1) of the statutes is amended to read:

12          71.36 (1) It is the intent of this section that shareholders of tax-option  
13 corporations include in their Wisconsin adjusted gross income their proportionate  
14 share of the corporation's tax-option items unless the corporation elects under s.  
15 71.365 (4) (a) not to be a tax-option corporation or elects under s. 71.365 (4m) (a) to  
16 be taxed at the entity level.

17          **SECTION 88.** 71.365 (1) of the statutes is renumbered 71.365 (1) (a) and  
18 amended to read:

19          71.365 (1) (a) For purposes of this chapter, the adjusted basis of a shareholder  
20 in the stock and indebtedness of a tax-option corporation shall be determined in the  
21 manner prescribed by the internal revenue code for a shareholder of an S  
22 corporation, except that the nature and amount of items affecting that basis shall be  
23 determined under this chapter. This subsection paragraph does not apply to 1978  
24 and earlier taxable years of corporations which were S corporations for federal

1 income tax purposes or to taxable years of corporations for which an election has been  
2 made under sub. (4) (a).

3 **SECTION 89.** 71.365 (1) (b) of the statutes is created to read:

4 71.365 (1) (b) The adjusted basis of a shareholder in the stock and indebtedness  
5 of a tax-option corporation that has made an election under sub. (4m) (a) is  
6 determined as if the election was not made.

7 **SECTION 90.** 71.365 (4m) of the statutes is created to read:

8 **71.365 (4m) TAX-OPTION CORPORATION ELECTION TO PAY FRANCHISE OR INCOME TAX**  
9 **AT THE ENTITY LEVEL.** (a) If persons who hold more than 50 percent of the shares on  
10 the day on which an election under this paragraph is made consent, a corporation  
11 that is an S corporation for federal income tax purposes may elect, on or before the  
12 due date or extended due date of its return under this chapter, to be taxed at the  
13 entity level at a rate of 7.9 percent of net income reportable to this state as described  
14 in par. (d) 1. for that taxable year.

15 (b) It is the intent of the election under par. (a) that shareholders of a tax-option  
16 corporation may not include in their Wisconsin adjusted gross income their  
17 proportionate share of all items of income, gain, loss, or deduction of the tax-option  
18 corporation. It is also the intent that the tax-option corporation shall pay tax on  
19 items that would otherwise be taxed if this election was not made.

20 (c) If persons who, on the day on which the election under this paragraph is  
21 made, hold more than 50 percent of the shares of a corporation that has elected to  
22 be taxed at the entity level under par. (a) consent, a corporation that is an S  
23 corporation for federal income tax purposes may elect, on or before the due date or  
24 extended due date of its return under this chapter, to revoke for that taxable year its  
25 election under par. (a).

(d) If an election is made under par. (a), all of the following apply:

1. The net income of the tax-option corporation is computed under s. 71.34 (1k) and the situs of income shall be determined as if the election was not made.

2. Except as provided in s. 71.07 (7) (b) 3., the tax credits under this chapter may not be claimed by the tax-option corporation.

3. The tax-option corporation may not claim losses under ss. 71.05 (8) and 71.26 (4).

4. The provisions of ss. 71.29 and 71.84 relating to estimated payments and underpayment interest shall apply to the tax-option corporation for the taxable year beginning in 2019 and later years.

5. If the tax-option corporation fails to pay the amount owed to the department with respect to income as a result of the election under par. (a), the department may collect such amount from the shareholders based on their proportionate share of such income.

(e) The department may promulgate rules to implement this subsection.

**SECTION 91.** 71.775 (3) (a) 4. of the statutes is created to read:

71.775 (3) (a) 4. The pass-through entity has elected under s. 71.21 (6) (a) or 71.365 (4m) (a) to be taxed at the entity level.

**SECTION 92.** 73.03 (71) of the statutes is amended to read:

73.03 (71) (a) To determine the amount of additional revenue ~~that reported to~~ the department collected from the taxes imposed under subch. III of ch. 77 as a result of any federal law to expand the United States Supreme Court decision that expands the state's authority to require out-of-state retailers to collect and remit the taxes imposed under subch. III of ch. 77 on purchases by Wisconsin residents during the first 12 months following the date on which the department begins collecting the



1 additional revenue as a result of a change in federal law period beginning on October  
2 1, 2018, and ending on September 30, 2019.

3 (b) After the department makes the determination under par. (a), the  
4 department of administration, in consultation with the department of revenue, shall  
5 determine how much the individual income tax rates under s. 71.06 may be reduced  
6 ~~in the following~~ for the taxable year ending on December 31, 2019, in order to  
7 decrease individual income tax revenue by the amount determined under par. (a).  
8 For purposes of this paragraph, ~~the department shall calculate~~ the tax rate  
9 reductions shall be calculated in proportion to the share of gross tax attributable to  
10 each of the tax brackets under s. 71.06 in effect during the most recently completed  
11 taxable year.

12 (c) ~~The department~~ No later than October 20, 2019, the secretary of  
13 administration shall certify and report the determinations made under pars. (a) and  
14 (b) ~~to the secretary of the department of administration, to the governor, and to the~~  
15 ~~legislature~~ the joint committee on finance, and the legislative audit bureau and  
16 specify with that certification and report that the new tax rates take effect ~~in~~ for the  
17 taxable year ~~following the taxable year in which the department makes the~~  
18 ~~certification under this paragraph~~ ending on December 31, 2019, subject to par. (d).

19 **SECTION 93.** 73.03 (71) (d) of the statutes is created to read:

20 73.03 (71) (d) The legislative audit bureau shall review the determinations  
21 reported under par. (c) and report its findings to the joint legislative audit committee  
22 and the joint committee on finance no later than November 1, 2019. If the legislative  
23 audit bureau's review of the determinations reported under par. (c) results in a  
24 different calculation of the tax rates than that made under par. (b), the joint  
25 committee on finance shall determine which tax rates to apply to the taxable year

ending on December 31, 2019, and report its determination to the governor, the secretary of administration, and the secretary of revenue no later than November 10, 2019.

**SECTION 94.** 77.51 (13g) (intro.) of the statutes is amended to read:

77.51 (13g) (intro.) Except as provided in sub. ~~subs.~~ (13gm) and (13h), "retailer engaged in business in this state", for purposes of the use tax, includes any of the following:

**SECTION 95.** 77.51 (13gm) of the statutes is created to read:

77.51 (13gm) (a) "Retailer engaged in business in this state" does not include a retailer who has no activities as described in sub. (13g), except for activities described in sub. (13g) (c), unless the retailer meets either of the following criteria in the previous year or current year:

1. The retailer's annual gross sales into this state exceed \$100,000.

2. The retailer's annual number of separate sales transactions into this state is 200 or more.

(b) If an out-of-state retailer's annual gross sales into this state exceed \$100,000 in the previous year or the retailer's annual number of separate sales transactions into this state is 200 or more in the previous year, the retailer shall register with the department and collect the ~~tax imposed~~ under s. 77.52 or 77.53 on sales sourced to this state under s. 77.522 for the entire current year.

(c) If an out-of-state retailer's annual gross sales into this state are \$100,000 or less in the previous year and the retailer's annual number of separate sales transactions into this state is less than 200 in the previous year, the retailer is not required to register with the department and collect the ~~tax imposed~~ under s. 77.52 or 77.53 on sales sourced to this state under s. 77.522 until the retailer's sales or

1 transactions meet the criteria in par. (a) 1. or 2. for the current year, at which time  
2 the retailer shall register with the department and collect the tax for the remainder  
3 of the current year.

4 (d) All of the following apply for purposes of this subsection:

5 1. "Year" means the retailer's taxable year for federal income tax purposes.

6 2. The annual amounts described in this subsection include both taxable and  
7 nontaxable sales.

8 3. Each required periodic payment of a lease or license is a separate sales  
9 transaction.

10 4. Deposits made in advance of a sale are not sales transactions.

11 5. An out-of-state retailer's annual amounts include all sales into this state  
12 by the retailer on behalf of other persons and all sales into this state by another  
13 person on the retailer's behalf.

14 **SECTION 96.** 84.013 (3) (ad) of the statutes is amended to read:

15 84.013 (3) (ad) Notwithstanding s. 13.489 (4) (c), any project approved by the  
16 transportation projects commission under s. 13.489 (4m) (b), 2015 stats., before the  
17 effective date of this paragraph .... [LRB inserts date].

18 **SECTION 97.** 84.03 (3) of the statutes is created to read:

19 84.03 (3) EXPENDITURE OF FEDERAL AID. (a) Except as provided under pars. (b)  
20 and (c), the department may not expend federal funds greater than 105 percent or  
21 less than 95 percent of the amount that is shown in the schedule for that fiscal year  
22 for each appropriation of federal funds under s. 20.395 (3) (ax), (bx), (cx), (dx), and  
23 (dy) for the purposes provided in that appropriation.

24 (b) The department may file a request to expend an amount greater than or less  
25 than an expenditure threshold under par. (a) with the cochairpersons of the joint

committee on finance. If the cochairpersons of the joint committee on finance do not notify the department that the committee has scheduled a meeting for the purpose of reviewing the request within 14 working days after the department filed the request, the department may expend funds as described in the request. If, within 14 working days after the department filed the request, the cochairpersons of the joint committee on finance notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the department's request, the department may expend funds as described in the request only with the committee's approval.

(c) The expenditure thresholds under par. (a) do not apply to any unencumbered federal funds carried into the balance of an appropriation from a prior fiscal year if used for the purposes of that appropriation.

**SECTION 98.** 84.54 of the statutes is created to read:

**84.54 Minimum federal expenditures for projects receiving federal funding.** (1) Except as provided in sub. (2), for all of the following projects on which the department expends federal moneys, the department shall expend federal moneys on not less than 70 percent of the aggregate project components eligible for federal funding each fiscal year:

(a) Southeast Wisconsin freeway megaprojects.

(b) Major highway development projects.

(c) State highway rehabilitation projects with a total cost of less than \$10 million.

(2) If the department determines that it cannot meet the requirements under sub. (1) or that it can make more effective and efficient use of federal moneys than the use required under sub. (1), the department may submit a proposed alternate funding plan to the joint committee on finance. If the cochairpersons of the

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1 The department may continue with any projects subject to the funding requirement  
2 under sub. (1) while the committee conducts its review, including any hearings  
3 conducted by the committee.

4 SECTION 2. 86.51 of the statutes is created to read:

5 **86.51 Requirements for local projects.** (1) In this section:

6 (a) "Local bridge" means a bridge that is not on the state trunk highway system  
7 or on marked routes of the state trunk highway system designated as connecting  
8 highways.

9 (b) "Local roads" means streets under the authority of cities or villages, county  
10 trunk highways, or town roads.

11 (c) "Political subdivision" means a county, city, village, or town.

12 (d) "Project" means the development, construction, repair, or improvement of  
13 a local road or a local bridge.

14 (2) If the department disburses aid to a political subdivision for a project, the  
15 department shall notify the political subdivision whether the aid includes federal  
16 moneys and which project components must be paid for with federal moneys, if any.

17 (3) For any project meeting all of the following criteria, the department may  
18 not require a political subdivision to comply with any portion of the department's  
19 facilities development manual other than design standards:

20 (a) The project proposal is reviewed and approved by a professional engineer  
21 or by the highway commissioner for the county in which the project will be located.

22 (b) The project is conducted by a political subdivision with no expenditure of  
23 federal money.

24 SECTION 3. Initial applicability.

1 committee do not notify the department within 14 working days after the date of the  
2 department's submittal that the committee has scheduled a meeting for the purpose  
3 of reviewing the proposed plan, the department may expend moneys as proposed in  
4 the plan. If, within 14 working days after the date of the submittal, the  
5 cochairpersons of the committee notify the department that the committee has  
6 scheduled a meeting for the purpose of reviewing the proposed plan, the department  
7 may expend moneys as proposed in the plan only upon approval of the committee.

8 **SECTION 99.** 85.05 of the statutes is amended to read:

9 **85.05 Evaluation of proposed major highway projects.** The department  
10 by rule shall establish a procedure for numerically evaluating projects considered for  
11 enumeration under s. 84.013 (3) as a major highway project. The evaluation  
12 procedure may include any criteria that the department considers relevant. The  
13 rules shall establish a minimum score that a project shall meet or exceed when  
14 evaluated under the procedure established under this section before the department  
15 may recommend the project to the transportation projects commission for  
16 consideration under s. 13.489 (4). ~~This section does not apply to major highway~~  
17 ~~projects identified in s. 84.013 (3) (ad).~~

18 **SECTION 100.** 86.51 of the statutes is created to read:

19 **86.51 Requirements for local projects. (1)** In this section:

20 (a) "Local bridge" means a bridge that is not on the state trunk highway system  
21 or on marked routes of the state trunk highway system designated as connecting  
22 highways.

23 (b) "Local roads" means streets under the authority of cities or villages, county  
24 trunk highways, or town roads.

25 (c) "Political subdivision" means a county, city, village, or town.

**SECTION 100**

1 (d) "Project" means the development, construction, repair, or improvement of  
2 a local road or a local bridge.

3 (2) If the department disburses aid to a political subdivision for a project, the  
4 department shall notify the political subdivision whether the aid includes federal  
5 moneys and which project components must be paid for with federal moneys, if any.

6 (3) For any project meeting all of the following criteria, the department may  
7 not require a political subdivision to comply with any portion of the department's  
8 facilities development manual other than design standards:

9 (a) The project proposal is reviewed and approved by a professional engineer  
10 or by the highway commissioner for the county in which the project will be located.

11 (b) The project is conducted by a political subdivision with no expenditure of  
12 federal money.

13 **SECTION 101.** 106.05 (2) (b) (intro.) of the statutes is amended to read:

14 106.05 (2) (b) (intro.) Subject to par. (c) and sub. (3), from the appropriation  
15 under s. 20.445 (1) (b) (~~dr~~), the department may provide to an apprentice described  
16 in par. (a) 1. or the apprentice's sponsor a completion award equal to 25 percent of  
17 the cost of tuition incurred by the apprentice or sponsor or \$1,000, whichever is less.  
18 If the department provides a completion award under this subsection, the  
19 department shall pay the award as follows:

20 **SECTION 102.** 106.05 (3) (a) of the statutes is amended to read:

21 106.05 (3) (a) If the amount of funds to be distributed under sub. (2) exceeds  
22 the amount available in the appropriation under s. 20.445 (1) (~~b~~) (~~dr~~) for completion  
23 awards under sub. (2), the department may reduce the reimbursement percentage  
24 or deny applications for completion awards that would otherwise qualify under sub.  
25 (2). In that case, the department shall determine the reimbursement percentage and

1 eligibility on the basis of the dates on which apprentices and sponsors become eligible  
2 for completion awards.

3 **SECTION 103.** 106.13 (3m) (b) (intro.) of the statutes is amended to read:

4 106.13 **(3m)** (b) (intro.) From the appropriation under s. 20.445 (1) (b) (e), the  
5 department may award grants to applying local partnerships for the implementation  
6 and coordination of local youth apprenticeship programs. A local partnership shall  
7 include in its grant application the identity of each public agency, nonprofit  
8 organization, individual, and other person who is a participant in the local  
9 partnership, a plan to accomplish the implementation and coordination activities  
10 specified in subds. 1. to 6., and the identity of a fiscal agent who shall be is responsible  
11 for receiving, managing, and accounting for the grant moneys received under this  
12 paragraph. Subject to par. (c), a local partnership that is awarded a grant under this  
13 paragraph may use the grant moneys awarded for any of the following  
14 implementation and coordination activities:

15 **SECTION 104.** 106.18 of the statutes is amended to read:

16 **106.18 Youth programs in 1st class cities.** From the appropriation account  
17 under s. 20.445 (1) (b) (fm), the department shall implement and operate youth  
18 summer jobs programs in 1st class cities.

19 **SECTION 105.** 106.26 (3) (c) (intro.) of the statutes is amended to read:

20 106.26 **(3)** (c) (intro.) To make grants from the appropriation under s. 20.445  
21 (1) (b) (fg) to eligible applicants to conduct projects or to match a federal grant  
22 awarded to an eligible applicant to conduct a project. Grants by the department are  
23 subject to all of the following requirements:

24 **SECTION 106.** 106.272 (1) of the statutes is amended to read:



1           106.272 (1) From the appropriation under s. 20.445 (1) (b) (dg), the department  
2 shall award grants to the school board of a school district or to the governing body  
3 of a private school, as defined under s. 115.001 (3d), or to a charter management  
4 organization that has partnered with an educator preparation program approved by  
5 the department of public instruction and headquartered in this state to design and  
6 implement a teacher development program.

7           **SECTION 107.** 106.273 (3) (a) (intro.) of the statutes is amended to read:

8           106.273 (3) (a) (intro.) From the appropriation under s. 20.445 (1) (b) (bz), the  
9 department shall ~~allocate not less than \$3,500,000 in each fiscal year for incentive~~  
10 ~~grants to school districts under this subsection. From that allocation, the~~  
11 ~~department shall annually award all of the following incentive grants to school~~  
12 ~~districts:~~

13           **SECTION 108.** 106.273 (3) (b) of the statutes is amended to read:

14           106.273 (3) (b) If the amount allocated under par. (a) available in the  
15 appropriation under s. 20.445 (1) (bz) in any fiscal year is insufficient to pay the full  
16 amount per student under par. (a) 1m. and 2m., the department may prorate the  
17 amount of the department's payments among school districts eligible for incentive  
18 grants under this subsection.

19           **SECTION 109.** 106.275 (1) (a) of the statutes is amended to read:

20           106.275 (1) (a) From the appropriation under s. 20.445 (1) (b) (cg), the  
21 department may ~~allocate up to \$500,000 in each fiscal year for technical education~~  
22 ~~equipment grants to school districts under this section. From that allocation, the~~  
23 ~~department may award~~ technical education equipment grants under this section in  
24 the amount of not more than \$50,000 to school districts whose grant applications are  
25 approved under sub. (2) (b).

1           **SECTION 110.** 108.04 (2) (a) (intro.) of the statutes is amended to read:

2           108.04 (2) (a) (intro.) Except as provided in ~~par. pars.~~ (b) and ~~to (bd)~~, sub. (16)  
3           (am) and (b), and s. 108.062 (10) and (10m) and as otherwise expressly provided, a  
4           claimant is eligible for benefits as to any given week only if all of the following apply:

5           **SECTION 111.** 108.04 (2) (a) 1. of the statutes is amended to read:

6           108.04 (2) (a) 1. ~~Except as provided in s. 108.062 (10), the individual~~ The  
7           claimant is able to work and available for work during that week;

8           **SECTION 112.** 108.04 (2) (a) 2. of the statutes is amended to read:

9           108.04 (2) (a) 2. ~~Except as provided in s. 108.062 (10m), as of that week, the~~  
10          individual The claimant has registered for work as ~~directed in the manner prescribed~~  
11          by the department; by rule.

12          **SECTION 113.** 108.04 (2) (a) 3. (intro.) of the statutes is renumbered 108.04 (2)  
13          (a) 3. and amended to read:

14          108.04 (2) (a) 3. The individual claimant conducts a reasonable search for  
15          suitable work during that week, ~~unless the search requirement is waived under par.~~  
16          ~~(b) or s. 108.062 (10m)~~ and provides verification of that search to the department.  
17          The search for suitable work must include at least 4 actions per week that constitute  
18          a reasonable search as prescribed by rule of the department. In addition, the  
19          department may, by rule, require an individual a claimant to take more than 4  
20          reasonable work search actions in any week. The department shall require a  
21          uniform number of reasonable work search actions for similar types of claimants.  
22          ~~This subdivision does not apply to an individual if the department determines that~~  
23          ~~the individual is currently laid off from employment with an employer but there is~~  
24          ~~a reasonable expectation of reemployment of the individual by that employer. In~~  
25          ~~determining whether the individual has a reasonable expectation of reemployment~~

1 by an employer, the department shall request the employer to verify the individual's  
2 employment status and shall also consider other factors, including:

3 **SECTION 114.** 108.04 (2) (a) 3. a. to c. of the statutes are renumbered 108.04 (2)  
4 (b) 1. a. to c. and amended to read:

5 108.04 (2) (b) 1. a. The history of layoffs and reemployments by the employer;.

6 b. Any information that the employer furnished to the individual claimant or  
7 the department concerning the individual's claimant's anticipated reemployment  
8 date; and.

9 c. Whether the individual claimant has recall rights with the employer under  
10 the terms of any applicable collective bargaining agreement; and.

11 **SECTION 115.** 108.04 (2) (b) of the statutes is renumbered 108.04 (2) (b) (intro.)  
12 and amended to read:

13 108.04 (2) (b) (intro.) The requirements for registration for work and search for  
14 work shall be prescribed by rule of the department, and the department may by  
15 general rule shall, except as provided under par. (bd), waive these requirements the  
16 registration for work requirement under certain stated conditions. par. (a) 2. if any  
17 of the following applies:

18 **SECTION 116.** 108.04 (2) (b) 1. (intro.) of the statutes is created to read:

19 108.04 (2) (b) 1. (intro.) The department determines that the claimant is  
20 currently laid off from employment with an employer but there is a reasonable  
21 expectation of reemployment of the claimant by that employer within a period of 8  
22 weeks, which may be extended up to an additional 4 weeks but not to exceed a total  
23 of 12 weeks. In determining whether the claimant has a reasonable expectation of  
24 reemployment by an employer, the department shall request the employer to verify  
25 the claimant's employment status and shall consider all of the following:

1           **SECTION 117.** 108.04 (2) (b) 2. to 6. of the statutes are created to read:

2           108.04 (2) (b) 2. The claimant has a reasonable expectation of starting  
3 employment with a new employer within 4 weeks and the employer has verified the  
4 anticipated starting date with the department. A waiver under this subdivision may  
5 not exceed 4 weeks.

6           3. The claimant has been laid off from work and routinely obtains work through  
7 a labor union referral and all of the following apply:

8           a. The union is the primary method used by workers to obtain employment in  
9 the claimant's customary occupation.

10          b. The union maintains records of unemployed members and the referral  
11 activities of these members, and the union allows the department to inspect those  
12 records.

13          c. The union provides, upon the request of the department, any information  
14 regarding a claimant's registration with the union or any referrals for employment  
15 it has made to the claimant.

16          d. Prospective employers of the claimant seldom place orders with the public  
17 employment office for jobs requiring occupational skills similar to those of the  
18 claimant.

19          e. The claimant is registered for work with a union and satisfies the  
20 requirements of the union relating to job referral procedures, and maintains  
21 membership in good standing with the union.

22          f. The union enters into an agreement with the department regarding the  
23 requirements of this subdivision.

24          4. The claimant is summoned to serve as a prospective or impaneled juror.

1           5. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the  
2 claimant is enrolled in and satisfactorily participating in a self-employment  
3 assistance program or another program established under state or federal law and  
4 the program provides that claimants who participate in the program shall be waived  
5 by the department from work registration requirements.

6           6. The claimant is unable to complete registration due to circumstances that  
7 the department determines are beyond the claimant's control.

8           **SECTION 118.** 108.04 (2) (bb) of the statutes is created to read:

9           108.04 (2) (bb) The department shall, except as provided under par. (bd), waive  
10 the work search requirement under par. (a) 3. if any of the following applies:

11           1. A reason specified in par (b) 1., 2., 3., or 4.

12           2. The claimant performs any work for his or her customary employer.

13           3. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the  
14 claimant is enrolled in and satisfactorily participating in a self-employment  
15 assistance program or another program established under state or federal law and  
16 the program provides that claimants who participate in the program shall be waived  
17 by the department from work search requirements.

18           4. The claimant has not complied with the requirement because of an error  
19 made by personnel of the department.

20           5. The claimant's most recent employer failed to post appropriate notice posters  
21 as to claiming unemployment benefits as required by the department by rule, and  
22 the claimant was not aware of the work search requirement.

23           6. The claimant has been referred for reemployment services, is participating  
24 in such services, or is not participating in such services, but has good cause for failure

1 to participate. For purposes of this subdivision, a claimant has good cause if he or she  
2 is unable to participate due to any of the following:

- 3 a. A reason specified in subd. 3. or par (b) 4.
- 4 b. The claimant is employed.
- 5 c. The claimant is attending a job interview.
- 6 d. Circumstances that the department determines are beyond the claimant's  
7 control.

8 **SECTION 119.** 108.04 (2) (bd) of the statutes is created to read:

9 108.04 (2) (bd) The department may, by rule, do any of the following if doing  
10 so is necessary to comply with a requirement under federal law or is specifically  
11 allowed under federal law:

- 12 1. Modify the availability of any waiver under par. (b) or (bb).
- 13 2. Establish additional waivers from the requirements under par. (a) 2. and 3.

14 **SECTION 120.** 108.04 (2) (bm) of the statutes is amended to read:

15 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for  
16 which there is a determination that the claimant failed to ~~conduct a reasonable~~  
17 ~~search for suitable~~ comply with the registration for work and work and search  
18 requirements under par. (a) 2. or 3. or failed to provide verification to the department  
19 that the claimant complied with those requirements, unless the department has not  
20 waived the search requirement those requirements under par. (b), (bb), or (bd) or s.  
21 108.062 (10m). If the department has paid benefits to a claimant for any such week,  
22 the department may recover the overpayment under s. 108.22.

23 **SECTION 121.** 165.055 (3) of the statutes is repealed.

24 **SECTION 122.** 165.07 of the statutes is created to read:

1           **165.07 Intervention by joint committee on legislative organization.** If  
2 the joint committee on legislative organization intervenes in an action in state or  
3 federal court as permitted under s. 803.09 (2m), the attorney general shall notify the  
4 court of the substitution of counsel by special counsel appointed by the joint  
5 committee on legislative organization and may not participate in the action.

6           **SECTION 123.** 165.08 of the statutes is renumbered 165.08 (1) and amended to  
7 read:

8           **165.08 (1)** Any civil action prosecuted by the department by direction of any  
9 officer, department, board, or commission, shall be compromised or discontinued  
10 when so directed by such officer, department, board, or commission.

11           **(2)** Any civil action prosecuted by the department on the initiative of the  
12 attorney general, or at the request of any individual may be compromised or  
13 discontinued with the approval of the governor by submitting a proposed plan to the  
14 joint committee on finance for the approval of the committee. The compromise or  
15 discontinuance may occur only if the joint committee on finance approves the  
16 proposed plan. No proposed plan may be submitted to the joint committee on finance  
17 if the plan concedes the unconstitutionality or other invalidity of a statute, facially  
18 or as applied, or concedes that a statute violates or is preempted by federal law,  
19 without the approval of the joint committee on legislative organization.

20           **(3)** In any criminal action prosecuted by the attorney general, the department  
21 shall have the same powers with reference to such action as are vested in district  
22 attorneys.

23           **SECTION 124.** 165.10 of the statutes, as created by 2017 Wisconsin Act 59, is  
24 amended to read:

1           **165.10 Limits on expenditure Deposit of discretionary settlement**  
2           **funds.** Notwithstanding s. 20.455 (3), before the The attorney general may expend  
3           shall deposit all settlement funds under s. 20.455 (3) (g) that are not committed  
4           under the terms of the settlement, the attorney general shall submit to the joint  
5           committee on finance a proposed plan for the expenditure of the funds. If the  
6           cochairpersons of the committee do not notify the attorney general within 14 working  
7           days after the submittal that the committee has scheduled a meeting for the purpose  
8           of reviewing the proposed plan, the attorney general may expend the funds to  
9           implement the proposed plan. If, within 14 working days after the submittal, the  
10          cochairpersons of the committee notify the attorney general that the committee has  
11          scheduled a meeting for the purpose of reviewing the proposed plan, the attorney  
12          general may expend the funds only to implement the plan as approved by the  
13          committee into the general fund.

14           **SECTION 125.** 165.25 (1) of the statutes is amended to read:

15           165.25 (1) REPRESENT STATE IN APPEALS AND ON REMAND. Except as provided in  
16           ss. 5.05 (2m) (a), 19.49 (2) (a), and 978.05 (5), if the joint committee on legislative  
17           organization does not intervene as permitted under s. 803.09 (2m), appear for the  
18           state and prosecute or defend all actions and proceedings, civil or criminal, in the  
19           court of appeals and the supreme court, in which the state is interested or a party,  
20           and attend to and prosecute or defend all civil cases sent or remanded to any circuit  
21           court in which the state is a party. Nothing The joint committee on legislative  
22           organization may intervene as permitted under s. 803.09 (2m) at any time, and if the  
23           committee intervenes, the attorney general shall notify the court of the substitution  
24           of counsel by special counsel appointed by the committee to represent the state and  
25           may not participate in the action, proceeding, or case. Unless the joint committee on



1 legislative organization intervenes as permitted under s. 803.09 (2m), nothing in this  
2 subsection deprives or relieves the attorney general or the department of justice of  
3 any authority or duty under this chapter in any other matter.

4 **SECTION 126.** 165.25 (1m) of the statutes is amended to read:

5 165.25 (1m) REPRESENT STATE IN OTHER MATTERS. If the joint committee on  
6 legislative organization does not intervene as permitted under s. 803.09 (2m), if  
7 requested by the governor or either house of the legislature, appear for and represent  
8 the state, any state department, agency, official, employee or agent, whether  
9 required to appear as a party or witness in any civil or criminal matter, and prosecute  
10 or defend in any court or before any officer, any cause or matter, civil or criminal, in  
11 which the state or the people of this state may be interested. The joint committee on  
12 legislative organization may intervene as permitted under s. 803.09 (2m) at any  
13 time, and if the committee intervenes, the attorney general shall notify the court of  
14 the substitution of counsel by special counsel appointed by the committee to  
15 represent the state and may not participate in the cause or matter. The public service  
16 commission may request under s. 196.497 (7) that the attorney general intervene in  
17 federal proceedings. All expenses of the proceedings shall be paid from the  
18 appropriation under s. 20.455 (1) (d).

19 **SECTION 127.** 165.25 (6) (a) of the statutes is renumbered 165.25 (6) (a) 1. and  
20 amended to read:

21 165.25 (6) (a) 1. At Except as provided in s. 893.825 (2), at the request of the  
22 head of any department of state government, the attorney general may appear for  
23 and defend any state department, or any state officer, employee, or agent of the  
24 department in any civil action or other matter brought before a court or an  
25 administrative agency which is brought against the state department, or officer,

1 employee, or agent for or on account of any act growing out of or committed in the  
2 lawful course of an officer's, employee's, or agent's duties. Witness fees or other  
3 expenses determined by the attorney general to be reasonable and necessary to the  
4 defense in the action or proceeding shall be paid as provided for in s. 885.07. The  
5 attorney general may compromise and settle the action as the attorney general  
6 determines to be in the best interest of the state except that, if the action is for  
7 injunctive relief or there is a proposed consent decree, the attorney general may not  
8 compromise or settle the action without first submitting a proposed plan to the joint  
9 committee on finance. If, within 14 working days after the plan is submitted, the  
10 cochairpersons of the committee notify the attorney general that the committee has  
11 scheduled a meeting for the purpose of reviewing the proposed plan, the attorney  
12 general may compromise or settle the action only with the approval of the committee.  
13 The attorney general may not submit a proposed plan to the joint committee on  
14 finance under this subdivision in which the plan concedes the unconstitutionality or  
15 other invalidity of a statute, facially or as applied, or concedes that a statute violates  
16 or is preempted by federal law, without the approval of the joint committee on  
17 legislative organization.

18 2. Members, officers, and employees of the Wisconsin state agencies building  
19 corporation and the Wisconsin state public building corporation are covered by this  
20 section. Members of the board of governors created under s. 619.04 (3), members of  
21 a committee or subcommittee of that board of governors, members of the injured  
22 patients and families compensation fund peer review council created under s.  
23 655.275 (2), and persons consulting with that council under s. 655.275 (5) (b) are  
24 covered by this section with respect to actions, claims, or other matters arising  
25 before, on, or after April 25, 1990. The attorney general may compromise and settle

claims asserted before such actions or matters formally are brought or may delegate such authority to the department of administration. This paragraph may not be construed as a consent to sue the state or any department thereof or as a waiver of state sovereign immunity.

**SECTION 128.** 227.01 (3m) of the statutes is created to read:

227.01 (3m) (a) "Guidance document" means, except as provided in par. (b), any formal or official document or communication issued by an agency, including a manual, handbook, directive, or informational bulletin, that does any of the following:

1. Explains the agency's implementation of a statute or rule enforced or administered by the agency, including the current or proposed operating procedure of the agency.

2. Provides guidance or advice with respect to how the agency is likely to apply a statute or rule enforced or administered by the agency, if that guidance or advice is likely to apply to a class of persons similarly affected.

(b) "Guidance document" does not include any of the following:

1. A rule that has been promulgated and that is currently in effect or a proposed rule that is in the process of being promulgated.

2. A standard adopted, or a statement of policy or interpretation made, whether preliminary or final, in the decision of a contested case, in a private letter ruling under s. 73.035, or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts.

3. Any document or activity described in sub. (13) (a) to (zz), except that "guidance document" includes a pamphlet or other explanatory material described

1 under sub. (13) (r) that otherwise satisfies the definition of “guidance document”  
2 under par. (a).

3 4. Any document that any statute specifically provides is not required to be  
4 promulgated as a rule.

5 5. A declaratory ruling issued under s. 227.41.

6 6. A pleading or brief filed in court by the state, an agency, or an agency official.

7 7. A letter or written legal advice of the department of justice or a formal or  
8 informal opinion of the attorney general, including an opinion issued under s.  
9 165.015 (1).

10 8. Any document or communication for which a procedure for public input,  
11 other than that provided under s. 227.112 (1), is provided by law.

12 9. Any document or communication that is not subject to the right of inspection  
13 and copying under s. 19.35 (1).

14 **SECTION 129.** 227.01 (13) (intro.) of the statutes is amended to read:

15 227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,  
16 or general order of general application ~~which~~ that has the effect force of law and  
17 ~~which~~ that is issued by an agency to implement, interpret, or make specific  
18 legislation enforced or administered by the agency or to govern the organization or  
19 procedure of the agency. “Rule” includes a modification of a rule under s. 227.265.  
20 “Rule” does not include, and s. 227.10 does not apply to, any action or inaction of an  
21 agency, whether it would otherwise meet the definition under this subsection, ~~which~~  
22 that:

23 **SECTION 130.** 227.05 of the statutes is created to read:

24 **227.05 Agency publications.** An agency shall identify the applicable  
25 provision of federal law or the applicable state statutory or administrative code

1 provision that supports any statement or interpretation of law that the agency  
2 makes in any publication, whether in print or on the agency's Internet site, including  
3 guidance documents, forms, pamphlets, or other informational materials, regarding  
4 the laws the agency administers.

5 **SECTION 131.** Subchapter II (title) of chapter 227 [precedes 227.10] of the  
6 statutes is amended to read:

7 **CHAPTER 227**

8 **SUBCHAPTER II**

9 **ADMINISTRATIVE RULES AND**

10 **GUIDANCE DOCUMENTS**

11 **SECTION 132.** 227.10 (2g) of the statutes is created to read:

12 227.10 (2g) No agency may seek deference in any proceeding based on the  
13 agency's interpretation of any law.

14 **SECTION 133.** 227.11 (title) of the statutes is amended to read:

15 **227.11 (title) ~~Extent to which chapter confers~~ Agency rule-making**  
16 **authority.**

17 **SECTION 134.** 227.11 (3) of the statutes is created to read:

18 227.11 (3) (a) A plan that is submitted to the federal government for the  
19 purpose of complying with a requirement of federal law does not confer rule-making  
20 authority and cannot be used by an agency as authority to promulgate rules. No  
21 agency may agree to promulgate a rule as a component of a compliance plan unless  
22 the agency has explicit statutory authority to promulgate the rule at the time the  
23 compliance plan is submitted.

24 (b) A settlement agreement, consent decree, or court order does not confer  
25 rule-making authority and cannot be used by an agency as authority to promulgate

1 rules. No agency may agree to promulgate a rule as a term in any settlement  
2 agreement, consent decree, or stipulated order of a court unless the agency has  
3 explicit statutory authority to promulgate the rule at the time the settlement  
4 agreement, consent decree, or stipulated order of a court is executed.

5 **SECTION 135.** 227.112 of the statutes is created to read:

6 **227.112 Guidance documents. (1)** (a) Before adopting a guidance document,  
7 an agency shall submit to the legislative reference bureau the proposed guidance  
8 document with a notice of a public comment period on the proposed guidance  
9 document under par. (b), in a format approved by the legislative reference bureau,  
10 for publication in the register. The notice shall specify the place where comments  
11 should be submitted and the deadline for submitting those comments.

12 (b) The agency shall provide for a period for public comment on a proposed  
13 guidance document submitted under par. (a), during which any person may submit  
14 written comments to the agency with respect to the proposed guidance document.  
15 Except as provided in par. (c), the period for public comment shall end no sooner than  
16 the 21st day after the date on which the proposed guidance document is published  
17 in the register under s. 35.93 (2) (b) 3. im. The agency may not adopt the proposed  
18 guidance document until the comment period has concluded and the agency has  
19 complied with par. (d).

20 (c) An agency may hold a public comment period shorter than 21 days with the  
21 approval of the governor.

22 (d) An agency shall retain all written comments submitted during the public  
23 comment period under par. (b) and shall consider those comments in determining  
24 whether to adopt the guidance document as originally proposed, modify the proposed  
25 guidance document, or take any other action.

1           (2) An agency shall post each guidance document that the agency has adopted  
2           on the agency's Internet site and shall permit continuing public comment on the  
3           guidance document. The agency shall ensure that each guidance document that the  
4           agency has adopted remains on the agency's Internet site as provided in this  
5           subsection until the guidance document is no longer in effect, is no longer valid, or  
6           is superseded or until the agency otherwise rescinds its adoption of the guidance  
7           document.

8           (3) A guidance document does not have the force of law and does not provide  
9           the authority for implementing or enforcing a standard, requirement, or threshold,  
10          including as a term or condition of any license. An agency that proposes to rely on  
11          a guidance document to the detriment of a person in any proceeding shall afford the  
12          person an adequate opportunity to contest the legality or wisdom of a position taken  
13          in the guidance document. An agency may not use a guidance document to foreclose  
14          consideration of any issue raised in the guidance document.

15          (4) If an agency proposes to act in any proceeding at variance with a position  
16          expressed in a guidance document, it shall provide a reasonable explanation for the  
17          variance. If an affected person in any proceeding may have relied reasonably on the  
18          agency's position, the explanation must include a reasonable justification for the  
19          agency's conclusion that the need for the variance outweighs the affected person's  
20          reliance interest.

21          (5) Persons that qualify under s. 227.12 to petition an agency to promulgate  
22          a rule may, as provided in s. 227.12, petition an agency to promulgate a rule in place  
23          of a guidance document.

24          (6) Any guidance document shall be signed by the secretary or head of the  
25          agency below the following certification: "I have reviewed this guidance document

1 or proposed guidance document and I certify that it complies with sections 227.10  
2 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document  
3 or proposed guidance document contains no standard, requirement, or threshold  
4 that is not explicitly required or explicitly permitted by a statute or a rule that has  
5 been lawfully promulgated. I further certify that the guidance document or proposed  
6 guidance document contains no standard, requirement, or threshold that is more  
7 restrictive than a standard, requirement, or threshold contained in the Wisconsin  
8 Statutes.”

9 (7) This section does not apply to guidance documents adopted before the first  
10 day of the 7th month beginning after the effective date of this subsection .... [LRB  
11 inserts date], but on that date any guidance document that has not been adopted in  
12 accordance with sub. (1) or that does not contain the certification required under sub.  
13 (6) shall be considered rescinded.

14 (8) The legislative council staff shall provide agencies with assistance in  
15 determining whether documents and communications are guidance documents that  
16 are subject to the requirements under this section.

17 **SECTION 136.** 227.13 of the statutes is amended to read:

18 **227.13 Advisory committees and informal consultations.** An agency may  
19 use informal conferences and consultations to obtain the viewpoint and advice of  
20 interested persons with respect to contemplated rule making. An agency also may  
21 also appoint a committee of experts, interested persons or representatives of the  
22 public to advise it with respect to any contemplated rule making. The Such a  
23 committee shall have advisory powers only. Whenever an agency appoints a  
24 committee under this section, the agency shall submit a list of the members of the  
25 committee to the joint committee for review of administrative rules.



1       **SECTION 137.** 227.135 (1) (g) of the statutes is created to read:

2       227.135 (1) (g) A statement as to whether the agency anticipates that the  
3       proposed rule will have minimal or no economic impact, a moderate economic impact,  
4       or a significant economic impact, whether locally, statewide, or on a sector of the  
5       economy.

6       **SECTION 138.** 227.135 (1) (h) of the statutes is created to read:

7       227.135 (1) (h) For a proposed emergency rule promulgated under s. 227.24,  
8       an explanation of why the rule is necessary for the preservation of the public peace,  
9       health, safety, or welfare. If the rule is exempt from the required finding of  
10      emergency, the statement of scope shall cite the act number and section or the statute  
11      section authorizing the promulgation of an emergency rule or a statement that the  
12      rule is promulgated at the direction of the joint committee for review of  
13      administrative rules under s. 227.26 (2) (b). The agency shall also include a  
14      statement as to whether the agency will promulgate a corresponding permanent rule  
15      and the agency's anticipated time line for promulgating the permanent rule.

16      **SECTION 139.** 227.135 (2) of the statutes is renumbered 227.135 (2) (a) 1. and  
17      amended to read:

18      227.135 (2) (a) 1. An Except as provided in subd. 2., an agency that has  
19      prepared a statement of the scope of the proposed rule shall present the statement  
20      to the department of administration, which shall make a determination as to  
21      whether the agency has the explicit authority to promulgate the rule as proposed in  
22      the statement of scope and shall report the statement of scope and its determination  
23      to the governor who, in his or her discretion, may approve or reject the statement of  
24      scope. The Except as provided in subd. 2., the agency may not send the statement  
25      to the legislative reference bureau for publication under sub. (3) until the governor

1 issues a written notice of approval of the statement and may not, without the written  
2 approval of the governor, send the statement to the legislative reference bureau for  
3 publication under sub. (3) more than 30 days after the date of the governor's approval  
4 of the statement of scope.

5 (b) The An agency that has prepared a statement of the scope of the proposed  
6 rule shall also present the statement to the individual or body with policy-making  
7 powers over the subject matter of the proposed rule for approval. The individual or  
8 body with policy-making powers may not approve the statement until at least 10  
9 days after publication of the statement under sub. (3) and, if a preliminary public  
10 hearing and comment period are held by the agency under s. 227.136, until the  
11 individual or body has received and reviewed any public comments and feedback  
12 received from the agency under s. 227.136 (5).

13 (c) No state employee or official may perform any activity in connection with  
14 the drafting of a proposed rule, except for an activity necessary to prepare the  
15 statement of the scope of the proposed rule, ~~until the governor and the individual or~~  
16 ~~body with policy-making powers over the subject matter of the proposed rule~~  
17 approve the statement has been approved as required under pars. (a) and (b). This  
18 subsection paragraph does not prohibit an agency from performing an activity  
19 necessary to prepare a petition and proposed rule for submission under s. 227.26 (4).

20 **SECTION 140.** 227.135 (2) (a) 2. of the statutes is created to read:

21 227.135 (2) (a) 2. The requirement under subd. 1. does not apply to statements  
22 of scope prepared by the department of public instruction.

23 **SECTION 141.** 227.135 (3) of the statutes is amended to read:

24 227.135 (3) ~~If the governor approves a~~ An agency that prepares a statement  
25 of the scope of a proposed rule under sub. (2), the agency (1) shall, subject to sub. (2)

1     (a) 1., send an electronic copy of the statement to the legislative reference bureau,  
2     in a format approved by the legislative reference bureau, for publication in the  
3     register. On the same day that the agency sends the statement to the legislative  
4     reference bureau, the agency shall send a copy of the statement to the secretary of  
5     administration and to the chief clerks of each house of the legislature, who shall  
6     distribute the statement to the cochairpersons of the joint committee for review of  
7     administrative rules. The agency shall include with any statement of scope sent to  
8     the legislative reference bureau the date of the governor's approval of the statement  
9     of scope if such approval is required under sub. (2) (a). The legislative reference  
10    bureau shall assign a discrete identifying number to each statement of scope and  
11    shall include that number and the date of the governor's approval, if required, in the  
12    publication of the statement of scope in the register.

13         **SECTION 142.** 227.135 (4) of the statutes is renumbered 227.135 (4) (a) (intro.)  
14    and amended to read:

15         227.135 (4) (a) (intro.) If at any time after a statement of the scope of a proposed  
16    rule is approved under sub. (2) the agency changes the scope of the proposed rule in  
17    any meaningful or measurable way, ~~including changing the scope of the proposed~~  
18    ~~rule so as to include in the scope any activity, business, material, or product that is~~  
19    ~~not specifically included in the original scope of the proposed rule,~~ the agency shall  
20    prepare and obtain approval of a revised statement of the scope of the proposed rule  
21    in the same manner as the original statement was prepared and approved under  
22    subs. (1) and (2). No For purposes of this subsection, a meaningful or measurable  
23    change includes any of the following:

24         (b) Whenever an agency is required to prepare a revised statement of scope  
25    under this subsection, no state employee or official may perform any activity in

1 connection with the drafting of the proposed rule except for an activity necessary to  
2 prepare the revised statement of the scope of the proposed rule until the revised  
3 statement is so approved as provided in sub. (2).

4 **SECTION 143.** 227.135 (4) (a) 1. to 6. of the statutes are created to read:

5 227.135 (4) (a) 1. A change to the objectives of the proposed rule.

6 2. A change to the basis and purpose of the proposed rule.

7 3. A change to the policies to be included in the proposed rule.

8 4. A change to the entities affected by the proposed rule.

9 5. A change to the overall breadth or scope of the regulation in the proposed  
10 rule.

11 6. A change to the scope of the proposed rule so as to include in the scope any  
12 activity, business, material, or product that is not specifically included in the original  
13 statement.

14 **SECTION 144.** 227.135 (6) of the statutes is created to read:

15 227.135 (6) An agency that intends to concurrently promulgate an emergency  
16 rule and a permanent rule that are identical in substance may submit one statement  
17 of scope indicating this intent.

18 **SECTION 145.** 227.137 (2) of the statutes is amended to read:

19 227.137 (2) An agency shall prepare an economic impact analysis for a  
20 proposed rule before submitting the proposed rule to the legislative council staff  
21 under s. 227.15. Prior to preparing an economic impact analysis as provided in this  
22 subsection, the agency shall review the statement of scope for the proposed rule  
23 prepared under s. 227.135 to determine whether a revised statement of scope is  
24 required under s. 227.135 (4).

25 **SECTION 146.** 227.137 (2m) of the statutes is created to read:

1           227.137 (2m) An agency's economic impact analysis under sub. (2) or revised  
2           economic impact analysis under sub. (4) shall be prepared and submitted separately  
3           from any fiscal estimate or revised fiscal estimate prepared and submitted under s.  
4           227.14 (4) (a) or (d).

5           **SECTION 147.** 227.137 (3) (e) of the statutes is renumbered 227.137 (3) (e)  
6           (intro.) and amended to read:

7           227.137 (3) (e) (intro.) A determination made in consultation with the  
8           businesses, local governmental units, and individuals that may be affected by the  
9           proposed rule as to whether the proposed rule would adversely affect in a material  
10          way the economy, a sector of the economy, productivity, jobs, or the overall economic  
11          competitiveness of this state. The agency shall make the determination required  
12          under this paragraph by doing all of the following:

13          **SECTION 148.** 227.137 (3) (e) 1. to 4. of the statutes are created to read:

14          227.137 (3) (e) 1. Compiling a list of affected persons and potential economic  
15          concerns identified in the comments solicited by the agency.

16          2. Contacting affected persons to discuss economic concerns.

17          3. Considering any raised concerns in drafting the economic impact analysis.

18          4. Documenting in the economic impact analysis the persons who were  
19          consulted and whether the agency's determination is disputed by any of the affected  
20          persons.

21          **SECTION 149.** 227.137 (3m) of the statutes is created to read:

22          227.137 (3m) (a) When soliciting comments under sub. (3) for an economic  
23          impact analysis, an agency shall accept comments for a period of at least 14 calendar  
24          days if, under s. 227.135 (1) (g), the statement of scope for the proposed rule indicates  
25          that the proposed rule will have minimal or no economic impact, at least 30 calendar

1 days if it indicates a moderate economic impact, and at least 60 calendar days if it  
2 indicates a significant economic impact or if the agency anticipates that the proposed  
3 rule will result in \$10,000,000 or more in implementation and compliance costs being  
4 incurred by or passed along to businesses, local governmental units, and individuals  
5 over any 2-year period. If the agency subsequently determines that the anticipated  
6 economic impact will be greater than indicated in the statement of scope, the agency  
7 shall adjust the comment period accordingly. An agency may not reduce a comment  
8 period once determined under this subsection.

9 (b) This subsection does not apply to a person preparing an independent  
10 economic impact analysis under sub. (4m).

11 **SECTION 150.** 227.137 (4) of the statutes is amended to read:

12 227.137 (4) On the same day that the agency submits the economic impact  
13 analysis to the legislative council staff under s. 227.15 (1), the agency shall also  
14 submit that analysis to the department of administration, to the governor, and to the  
15 chief clerks of each house of the legislature, who shall distribute the analysis to the  
16 presiding officers of their respective houses, to the chairpersons of the appropriate  
17 standing committees of their respective houses, as designated by those presiding  
18 officers, and to the cochairpersons of the joint committee for review of administrative  
19 rules. If a proposed rule is modified after the economic impact analysis is submitted  
20 under this subsection so that the economic impact of the proposed rule is  
21 significantly changed, the agency shall prepare a revised economic impact analysis  
22 for the proposed rule as modified. For purposes of this subsection, a significant  
23 change includes an increase or a decrease of at least 10 percent or \$50,000, whichever  
24 is greater, in the expected implementation and compliance costs reasonably expected  
25 to be incurred by or passed along to a majority of the businesses, local governmental

1 units, and individuals as a result of the proposed rule, as identified under sub. (3) (b),  
2 or a significant change in the persons expected to be affected by the proposed rule.

3 A revised economic impact analysis shall be prepared and submitted in the same  
4 manner as an original economic impact analysis is prepared and submitted.

5 **SECTION 151.** 227.138 (1) (intro.) of the statutes is renumbered 227.138 (1) and  
6 amended to read:

7 227.138 (1) The joint committee for review of administrative rules may direct  
8 an agency to prepare a retrospective economic impact analysis for any of an agency's  
9 rules that are published in the code. The committee may identify one or more specific  
10 chapters, sections, or other subunits in the code that are administered by the agency  
11 as the rules that are to be the subject of the analysis and may specify a deadline for  
12 the preparation of the analysis.

13 **(1r)** A retrospective economic impact analysis shall contain information on the  
14 economic effect of the rules on specific businesses, business sectors, public utility  
15 ratepayers, local governmental units, and the state's economy as a whole. When  
16 preparing the analysis, the agency or person preparing the analysis shall solicit  
17 information and advice from businesses, associations representing businesses, local  
18 governmental units, and individuals that have been affected by the rules. The  
19 agency or person shall prepare the retrospective economic impact analysis in  
20 coordination with local governmental units that have been affected by the rules. The  
21 agency or person may request information that is reasonably necessary for the  
22 preparation of a retrospective economic impact analysis from other businesses,  
23 associations, local governmental units, and individuals and from other agencies.  
24 The retrospective economic impact analysis shall include all of the following: